

IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA:

Cr.A.No.333 of 2000

Date of Decision :29th August, 2007.

State of H.P.	...appellant.
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Versus:

Bhajan Ram.	...Respondent.
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Coram:

The Hon'ble Mr.Justice Sanjay Karol, Judge.

Whether approved for reporting?¹

For the appellant:	Mr.A.Burathoki,	Addl.Advocate
	General.	

For Respondent.	Mr.N.K.Thakur, Advocate.
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Sanjay Karol, J (Oral).

The present appeal arises out of the judgment dated 23rd July, 1997 passed in Criminal Case No.65/2 of 1996 acquitting the respondent of the charge under Section 498-A of the Indian Penal Code.

In the present case, the dispute in question is between the husband and wife, who got married in the year 1990. On 29th November, 1996, complainant-Meena Kumari (wife) filed a complaint in Police Station, Recong Peo and an F.I.R. No.5 of 1996 under Section 498-A IPC was registered against the respondent-husband.

¹ Whether reporters of Local Papers may be allowed to see the judgment?

After completion of the investigation, challen was presented in the Court and charges against the accused under Section 498-A of the Indian Penal Code were framed. The accused pleaded not guilty and consequently the matter was put up for trial.

After examining the statements of six witnesses led by the prosecution, statement of the accused under Section 313 Cr.P.C. was also recorded. The Court below, after examining the prosecution witnesses, came to the conclusion that there was not enough material on record to prove that the complainant-wife was subjected to cruelty so as to constitute an offence under Section 498-A I.P.C. The conduct of the accused was not such so as to say that there was any likelihood of the wife being driven to the state of either committing suicide or cause grave injury or danger to the life of the complainant-Meena Kumari.

Statement of Smt. Meena Kumari (PW-1) would show that she has not given any specific details of the particular incident of alleged maltreatment or beatings given by the accused. In fact, Sharan Dev (PW-2) and Guru Gian (PW-3) have not been even deposed a single word in their statements about any specific alleged maltreatment/beatings given by the accused to the complainant.

The trial Court found that two independent witnesses, namely, Roopi Chand and Uma Sukh were given up

by the prosecution on 26th February, 1997. There is no justification for the same. It has come on record through the statement of Dr.Anita Negi (PW-5) that PW-1 who had come to the hospital for getting their child aborted. It is clear from the record that there was no pressure or threat to the life of complainant-Meena Kumari. The doctor who medically examined the wife has not been produced as a witness by the prosecution. The only evidence on record shows that the wife and accused had been taken to hospital for getting their child aborted and Dr.Anita Negi (PW-5) has only testified the signature of Dr.A.K. Kaundal who had examined the wife in terms of Ext.PW-5/A. From her statement, it is clear that the wife had come to the hospital as a general patient and there is nothing on record to show that any willful act of the accused is of such a nature so as to drive the wife to commit suicide or cause danger to her life was noticed by the prosecution.

It is not the case of the complainant-wife that she had been harassed with a view to coerce her to meet unlawful demand of dowry. In the present case, I am fully satisfied as is evident from the material on record and after careful scrutiny of the statements of all the witnesses, the ingredients to constitute an offence under Section 498-A I.P.C. have not been proved.

I have perused the statement of PW-1 except for simple and bald statement that she was beaten up by the accused, there is nothing in her statement to prove the

culpability of the accused in the commission of the alleged crime. Even this allegation is un-specified. She has deposed that the accused since November, 1990 used to fight with her and never took care of her till 1991 when she visited her parents' house. When her daughter was born in August, 1991, she visited her matrimonial home in March, 1992 where her husband used to trouble her. From her statement, it is clear that she has been visiting her parents and matrimonial house at repeated intervals and given birth to three children. From her statement, it appears that there was some marital discord between the parties but that alone would not constitute an offence under Section 498-A I.P.C.

I have gone through the entire material on record, carefully appreciated the evidence and came to the conclusion that the judgment of the trial Court is well reasoned which is fully supported by the material on record and in my view, there is no perversity in the same necessitating interference in an appeal against the acquittal.

The appeal is accordingly dismissed.

**(Sanjay Karol),
Judge.**

August 29, 2007(R)

